



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant(s): Mark et al.
Appl. No.: 09/759,037
Filed: January 10, 2001
Title: Calorically Dense Nutritional Composition
Art Unit: 3136
Examiner: Sharareh, S.
Docket No.: 112701-138

TECH CENTER 1600/2900

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Commissioner for Patents
Washington, DC 20231

RESPONSE TO OFFICE ACTION

Sir:

In response to the Office Action dated March 26, 2002, please amend the above-identified patent application as follows:

REMARKS

In the Office Action, claims 1-22 are rejected under the judicially created doctrine of obviousness-type double patenting; claims 1-22 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting; and claims 1-22 are rejected under 35 U.S.C. §§ 102 and/or 103. Applicants respectfully submit that the rejections are improper for the reasons set forth below.

In the Office Action, claims 1-22 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-30 of U.S. Patent No. 5,661,123; claims 1-22 of U.S. Patent No. 6,200,950; and claims 1-20 of U.S. Patent No. 5,549,905. In response, Applicants are submitting herewith a Terminal Disclaimer. Applicants respectfully submit that the Terminal Disclaimer overcomes the double patenting rejection.

Accordingly, Applicants respectfully request that this rejection be withdrawn.

In the Office Action, claims 1-22 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-22 of co-pending U.S. Patent Application No. 09/622,629. In response, Applicants respectfully submit that upon Notice of Allowability of either one of the co-pending applications that a Terminal